

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 3:19-cr-00008-CVG-RM

DAVID WIKEL,

Defendant.

_____/

AMENDED AFFIDAVIT

State of Florida)
County of Palm Beach)

BEFORE ME, the undersigned authority, appeared DAVID WIKEL, who is personally known to me, and who first being duly sworn on oath deposes and says:

1. My name is David Wikel. I am over the age of 18, and I am competent to provide an Affidavit. All information contained herein is based upon my personal knowledge.
2. I am currently President of Therma Seal Roof Systems, LLC, a Florida corporation, located at 1421 Oglethorpe Road, West Palm Beach, FL 33405.
3. I am currently charged by Information in the above-captioned case with a violation of Title 41, U.S.C. § 8702 - providing kickbacks related to the costs of the Ron De Lugo Federal Building roof replacement and retrofitting.
4. I was President of Therma Seal Roof Systems, LLC in 2014 in reference to the roof replacement and retrofit of the Ron De Lugo Federal Building, Charlotte Amalie, USVI. Therma Seal Roof Systems, LLC was the sub-contractor, and the General Contractor was Schneider Electric, 1650 W. Crosby Road, Carrollton, TX 75006. Schneider Electric's representative/contact and the individual that I dealt with was Bhaskar Patel.

Affidavit of David Wikel

5. I do hereby affirm, and I am respectfully concerned about the extent of bias and/or prejudice, or an appearance of impartiality against me and Therma Seal Roof Systems, LLC, by the Honorable Curtis V. Gomez, the District Court Judge who will be presiding in this case.

6. The facts and matters upon which my beliefs are based are as follows:

A. Therma Seal Roof Systems, LLC, as noted in paragraph 4, was chosen by Schneider Electric to do and perform roofing installation at the Ron de Lugo Federal Building (STT) at 5500 Veterans Drive, Charlotte Amalie, St. Thomas, USVI 00801 in 2015. The scope of the work was to replace and retrofit the entire roof with the exception of the existing flat decks.

B. The project was started on March 15, 2014, and there came a time when I was advised by Schneider that the Chief Judge (Curtis V. Gomez) was not happy with Therma Seal Roofing Systems, LLC, because of the noise created during the work days in the scope of Therma Seal placing and retrofitting the roof on the Federal Courthouse. Originally after the job had started, Judge Gomez stopped the work and precluded us from working on Wednesdays when the court was in session. Judge Gomez then stopped all work on the project for a period and, when we were permitted to return, we were required to work nights after 6:00 p.m. and on weekends.

C. In reviewing the discovery that my attorney received from the government, there was a statement from Bhaskar Patel, page 30 of the Memorandum of Interview (conducted by SA William Nelson on July 6, 2017). It reads as follows:

PATEL stated, "We'd do the bottles," with FNU Hernandez, Director, GSA Region 2 (Caribbean). He said they had been working together on a GSA ESPC at the St. Thomas Federal Court House where the Chief Judge was not happy with SCHNEIDER and barred them from the facility. So, PATEL said he got together with Hernandez and bought Hernandez dinner. He said Hernandez talked to the judge who agreed to allow SCHNEIDER to return to the building, though they were restricted from "piling after 11:00 PM." (Bottles is a restaurant in St. Thomas at that time.)

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D. Because Judge Gomez refused to permit the workers to work during the daytime, there were cost overruns and the roofing and retrofit took an additional three months to complete. There were delays in the completion of the Courthouse and it was not completed on the due date of July 3, 2014 as outlined in the contract. The work was not completed until October 10, 2014 when the final as built drawings were submitted. There were also several times during the project where we were informed by Cesar Cortez and/or Greg Rosario of Schneider Electric that leaks had occurred not only in the courthouse but in Judge's personal chambers related to the retrofit.

E. In September, 2017, I understand that the roof and building of the Federal Courthouse in St. Thomas was severely damaged and nearly demolished by Hurricane Maria. It is my further understanding that the Courthouse had to be rebuilt along with a new roof which took nearly ten (10) months to complete.

F. As a Defendant in the above case before the Honorable Judge Gomez, I am deeply concerned about the bias and appearance of impartiality by the Judge when hearing a case regarding alleged kickbacks involving the retrofitting and roofing of the Federal Courthouse where the Judge has sat on the bench for years. In my mind, the Courthouse represents a building that is as important to the Judge as his own home, and he was disturbed and inconvenienced during the construction process to the extent that he halted work during Court hours for both the prime contractor, Schneider Electric, and my company, Therma Seal. Thus, I sincerely believe there is bias and an appearance of an underlying prejudice that has to be on the mind of the Judge. Further, after the storms in 2017 adding further disruption and irritation to the Court, I am concerned that the Judge will be prejudiced by the perceived quality of the work completed by Therma Seal Roof Systems, LLC in 2015 (as it appears the roof may not have held up through the force of the storm). Moreover, the crime with which I am accused is for paying kickbacks to obtain and maintain a contract for construction on the federal building which the government contends resulted in an increased and unjustified cost for the work.

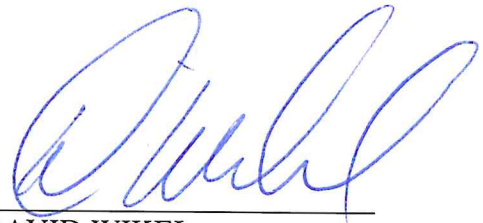
G. I respectfully believe that all of the above matters must be ingrained in the mind of Judge Gomez to the extent that it would impede his impartiality in my case before him. It is my further belief that the Judge should recuse himself, and a new Judge should be assigned to hear any further proceedings in my case.

H. All of the above matters above are based upon my personal

knowledge and belief and summarized with the understanding that I would have all due respect for the Judge if this were any other case not involving work completed by me and/or my company on a building so directly connected to the Judge.

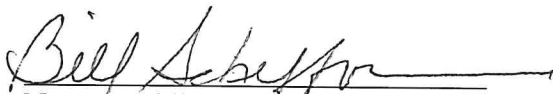
Affidavit of David Wikel

FURTHER AFFIANT SAYETH NAUGHT.



DAVID WIKEL
President,
Therma Seal Roofing Systems, LLC

Sworn to and subscribed before me this
28 day of MARCH, 2019.



Notary Public, State of Florida
My Commission Expires:

